

REMARKS

Claims 1-25 and 27-30 are pending in the application.

Claims 1-25 and 27-30 have been rejected.

Claims 1, 11, 16, 21 and 30 have been amended. Support for the amendments can be found in at least paragraphs [0045], [0047], and [0067]-[0072] of the present Specification.

Claim Objections

Claim 30 is objected to because of the following informalities. Claim 30, line 1, “The computer-readable medium” should read “The computer-readable storage medium”. Claim 30 has been amended to reflect the referenced correction. Applicants respectfully request that the objection be withdrawn.

Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1, 2, 5-8, 11-12, 15-17, 20-22 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Short et al. (USPN 6,178,529) (“Short”), in view of Chao et al. (USPN 6,393,485) (“Chao”). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that the cited reference, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Applicants respectfully submit that Short and Chao, taken alone or in any permissible combination, fail to disclose, teach, or suggest the limitations of the amended independent claims. For example, Short and Chao, taken alone or in any permissible combination, fail to disclose, teach, or suggest “comparing a priority of at least one of the

one or more applications to a priority of the application.” At most, Short and Chao discuss a system that: monitors the health of a resource with a timer and a synchronous polling mechanism (Short, col. 10, lines 62-67 – col. 11, lines 1-4); determines if a resource can be restarted locally or relocated to another system, if the resource fails (Short, col. 8, lines 27-36); performs dynamic load balancing and failover of resources among systems (Short, col. 1, lines 31-34; col. 7, lines 32-42); and restarts a resource group at a current cluster node or moves the resource group to another cluster node, upon failure of a cluster node (Chao, col. 3, lines 23-27; col. 5, lines 40-45; col. 7, lines 34-43). The claimed “comparing” differs from the cited references because the claimed “priorities” of the applications are used to determine whether the cluster can be reconfigured. In stark contrast, the cited passages of Short and Chao, taken alone or in any permissible combination, do not even address any sort of priority of applications, much less “comparing a priority of at least one of the one or more applications to a priority of the application,” as claimed.

Short and Chao, taken alone or in any permissible combination, also fail to disclose, teach, or suggest “the determining comprises detecting whether one or more applications executing on one of the nodes are compatible with the application, and detecting whether the one of the nodes can provide the quantity of the resource,” as recited in the amended independent claims. The cited passages of Short and Chao, taken alone or in any permissible combination, fail to disclose, teach, or suggest the aforementioned “determining” limitation because while Short discusses the management of Short’s “resource dependencies” (*See, e.g.,* col. 5, lines 45-55 of Short), such resource dependencies merely indicate any resources that are dependent on the presence of another resource in order to operate as a group. In stark contrast, the aforementioned

“determining” limitation recites application compatibility, which implies that an application started on a node as long as the application does not conflict with other applications executing on the node. Thus, Short’s “resource dependencies” do not disclose, teach, or suggest the recited application compatibility since the requirement of the presence of Short’s resource differs from the absence of an application conflict.

For at least these reasons, Short and Chao, taken alone or in any permissible combination, fail to disclose, teach, or suggest the limitations of the independent claims. Thus, independent Claims 1, 11, 16, and 21 and all claims dependent therefrom are patentable over Short and Chao, taken alone or in any permissible combination. Applicants therefore respectfully request that the rejection be withdrawn.

Claims 3, 9, 10, 13, 18 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Short in view of Chao, as applied to claims 1, 11, 16 and 21 above, and further in view of Trossman et al. (USPN 7,308,687) (“Trossman”). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that the cited reference, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. The Final Office Action does not cite Trossman as disclosing, teaching, or suggesting any of the limitations of the independent claims. Thus, Claims 3, 9, 10, 13, 18, and 23 are patentable over Short, Chao, and Trossman, taken alone or in any permissible combination, at least because of their dependency on the patentable independent claims. Applicants therefore respectfully request that the rejection be withdrawn.

Claims 4, 14, 19, 24 and 27-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Short in view of Chao, as applied to claims 1, 11, 16 and 21 above, and further in view of Fong et al. (USPN 6,366,945) ("Fong"). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that the cited reference, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Fong is not cited as disclosing, teaching, or suggesting any of the limitations of the independent claims. Thus, Claims 4, 14, 19, 24 and 27-30 are patentable over Short, Chao, and Fong, taken alone or in any permissible combination, at least because of their dependency on the patentable independent claims. Applicants therefore respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephone interview, the Examiner is invited to telephone the undersigned at 512-439-5087.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicants hereby petition for such extensions. Applicants also hereby authorize that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R. Liu', with a long horizontal flourish extending to the right.

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